IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4047 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CHARUTAR VIDYA MANDAL

Versus

R J SHAH (RETD.) FEE COMMITTEE(HIGHER AND TECHNICAL EDU.)

Appearance:

1. Special Civil Application No. 4047 of 2005

MR DC DAVE for Petitioner No. 1

MR AD Oza with Mr. DIPAK R DAVE for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 27/04/2005

ORAL JUDGEMENT

Rule. Shri AD Oza learned advocate appearing with Mr. Shri Dipak Dave, learned advocate waives service of Rule on behalf of respondent No.1. With the consent of the parties, the matter is taken up for Final Hearing today.

2. In this petition under Article 226 of the Constitution of India the petitioner has challenged the legality and validity of the decision of the respondent, Justice R.J. Shah Committee dated 15.12.2004 finalizing the fee structure so far as petitioner institution is concerned which is conducting PTC courses at Rs. 12000 per student per annum for a period of 3 years starting from 2003-2004.

3. Shri AD Oza, learned advocate on behalf of the petitioner has submitted that at the relevant time when the respondent Committee solicited information in a prescribed format on the aspect of fee structure from various colleges conducting PTC course in the State of Gujarat working in the pattern of Self Financing the College of the petitioner was not made functional and therefore the petitioner college could not submit the requisite information in the prescribed format to the respondent Committee. It is further submitted that thereafter the petitioner was served with communication dated 18th October 2004 from the Office of the Deputy Director, Primary Education conveying that the petitioner has failed to submit requisite information in the prescribed format as asked for by the respondent Committee and therefore the petitioner should submit the same latest by 20th October 2004. It is the case of the petitioner that the petitioner immediately addressed a communication dated 20th October 2004 being the date on which the said communication dated 18th October 2004 was received by the petitioner inter alia conveying to the Deputy Director, Primary Education that uptill now the petitioner has not received the prescribed format in which the information is supposed to be submitted by the petitioner and therefore the petitioner demanded the prescribed format to submit the information. It is the case of the petitioner that instead of supplying the prescribed format the petitioner came to be served with the impugned order. Therefore it is submitted that the impugned decision has been taken by the respondent Committee without there being any basis and material so far as the petitioner institution is concerned and requested to allow the present Special Civil Application and to quash and set aside the said order.

4. In response to the notice issued by this Court, Shri AD Oza, learned advocate appearing with Shri Dipak Dave for the respondent Committee has submitted that on the basis of the material available with regard to other institutions and in view of the fact that the petitioner institution being a new college there could not have been any audited accounts to be submitted by the petitioner

and the decision taken to fix the fee ceiling at Rs. 12,000 per student per annum is just and proper and such decision is taken after considering the material available with regard to other institutions. It is submitted that so far as the prescribed format is concerned the petitioner can approach the respondent Committee and on approaching the prescribed format will be given.

5. Heard the learned advocates appearing for the parties. In the facts and circumstances of the case, if the following directions are issued it will meet the ends of justice;

(i) The petitioner institution shall approach the respondent Committee within the period of one week from today for the purpose of getting the prescribed format and if they do so the respondent may provide the prescribed format to the petitioner;

(ii) On receipt of the prescribed format the petitioner shall submit necessary data and other materials as per the prescribed format within the period of two weeks thereafter. On receipt of the same, the respondent Committee is requested to reconsider its decision dated 15.12.2004 and take an appropriate decision in accordance with law and on merits within the period of two weeks thereafter and communicate the same to the petitioner. The respondent Committee shall take such decision considering the particulars to be submitted by the petitioner in the prescribed format independently without in any way being influenced by its earlier decision dated 15.12.2004, which is kept in abeyance;

(iii) Until a fresh decision is taken, the communication/decision dated 15.12.2004 is directed to be kept in abeyance and the petitioner shall abide by the directions that may be issued by the respondent Committee while taking the decision, subject to challenging of such decision.

6. With the aforesaid observations and direction, the present Special Civil Application is disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

{ M.R. Shah, J. }

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